

Message Text

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SUBJECT: BULGARIAN DECREE ON FOREIGN REPRESENTATION AGENCIES

REF: SOFIA 2724

1. SUMMARY: GOB COUNCIL OF MINISTERS HAS OFFICIALLY ADOPTED DECREE WHICH FOR FIRST TIME LEGALLY PERMITS FOREIGN BUSINESS REPRESENTATIVES TO BE STATIONED IN BULGARIA. WHILE DECREE IS OSTENSIBLY DESIGNED TO REGULATE RELATIONSHIPS BETWEEN FOREIGN FIRMS AND INTERPRED ASSOCIATION, IT MAKES POSSIBLE MORE ACTIVITY BY WESTERN BUSINESS FIRMS WHICH PREVIOUSLY HAD SHUTTLED OFFICIALS IN AND OUT OF BULGARIA. NEW DECREE -- THOUGH NOT NECESSARILY SO INTENDED -- HAS IMPLICATIONS WITH REGARD COMPLAINTS CSCE BASKET II. END SUMMARY.

2. STATE GAZETTE OF DECEMBER 19 PUBLISHES DECREE (NKBER 147) FORMALIZING ADOPTION OF NEW REGULATION
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GOVERNING FOREIGN FIRM REPRESENTATIVE OFFICES IN BULGARIA.

DECREE, WHICH STATES THAT IT IS WITHIN THE INTENT OF THE "FOREIGN TRADE BILL," LEGALIZES ESTABLISHMENT OF "TEMPORARY" REPRESENTATIVE AGENCIES ONLY IN CONJUNCTION WITH ASSOCIATED BUREAUS OF INTERPRET, STATE FOREIGN TRADE ORGANIZATION WHICH PREVIOUSLY HAD SOLE RIGHT TO ACT AS REPRESENTATIVES IN BULGARIA FOR FIRMS FROM NON-SOCIALIST COUNTRIES. DECREE SPECIFIES THAT PREFERENCE FOR CREATING THESE AGENCIES IS GIVEN TO THOSE FOREIGN FIRMS WHICH HAVE CONCLUDED ECONOMIC, TECHNICAL AND PRODUCTION AGREEMENTS WITH BULGARIAN ENTERPRISES AND FOREIGN TRADE ORGANIZATIONS, BUT ALSO STATES THEY MAY BE CREATED FOR FIRMS WHO HAVE SIGNED AGREEMENTS FOR "LARGE MUTUAL DELIVERIES."

3. FOREIGN FIRMS WISHING TO ESTABLISH AGENCIES PER DECREE MUST APPLY TO MINISTRY FOREIGN TRADE. APPLICATIONS MUST INCLUDE AMONG OTHER ITEMS INFORMATION ON BUSINESS CONNECTIONS AND AGREEMENTS ALREADY CONCLUDED. MINISTRY MAY ISSUE PERMITS ESTABLISHING AGENCIES FOR PERIOD OF UP TO TWO YEARS, BUT EXTENSIONS MAY BE GRANTED IF CONTINUED FUNCTION OF AGENCY IS DEEMED NECESSARY. AGENCIES ARE ALSO REQUIRED TO FILE WITH THE MINISTRY BIENNIAL REPORTS ON THEIR ACTIVITIES.

4. FOREIGN FIRM REPRESENTATION WOULD STILL BE STRICTLY TIED TO INTERPRET ASSOCIATION AND TEMPORARY AGENCIES CREATED WOULD NOT BE SEPARATE JURIDICAL ENTITIES. PRIOR TO ANY APPLICATION FOR PERMIT FROM MINISTRY OF FOREIGN TRADE, AN AGREEMENT MUST BE CONCLUDED WITH ONE OF INTERPRET BUREAUS. AGENCIES ARE TO CONDUCT BUSINESS UNDER "GUIDANCE AND CONTROL" OF INTERPRET BUREAUS, AND INTERPRET IS CHARGED WITH OBTAINING WHATEVER PREMISES, OFFICE EQUIPMENT AND BULGARIAN PERSONNEL ARE NECESSARY FOR OPERATION. BULGARIAN PERSONNEL WILL BE CONSIDERED EMPLOYEES OF INTERPRET, NOT THE AGENCY. INTERPRET WILL ALSO ACT AS FILTER FOR FOREIGN BUSINESS REPRESENTATIVES IN DEALING WITH BULGARIAN BUSINESS AND GOVERNMENT OFFICIALS.

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5. MOST IMPORTANT DEPARTURE IN DECREE ARE REGULATIONS EXPLICITLY PROVIDING FOR FOREIGN BUSINESS REPRESENTATIVES TO RESIDE IN BULGARIA SUBJECT WHICH APPARENTLY WAS NOT ADDRESSED IN PREVIOUS LEGISLATION. (THERE HAVE BEEN A FEW BUSINESS REPRESENTATIVES LIVING IN SOFIA ON QUASILEGAL BASIS, AND MANY BUSINESSMEN, JAPANESE IN PARTICULAR, WHO TRIED TO SET UP OFFICES IN

SOFIA HOTELS WERE FORCED TO LEAVE WHEN THEIR VISAS WERE NOT EXTENDED.) APPLICATIONS FOR AGENCIES MUST LIST NUMBER AND POSITIONS OF BULGARIANS AND FOREIGNERS TO BE EMPLOYED, AND NUMBER OF FOREIGNERS MAY NOT EXCEED BULGARIANS. PERMITS ISSUED WILL SPECIFY NUMBER OF FOREIGNERS ALLOWED IN BULGARIA UNDER PROVISIONS OF THIS DECREE, AND FOREIGNERS WILL RESIDE HERE UNDER REGULATIONS CONTAINED IN LAW FOR SOJOURN OF FOREIGNERS IN BULGARIA. (THIS LAW GOVERNS SUCH MATTERS AS VISAS, RESIDENCE DOCUMENTS, DEPARTURE PROCEDURES, ETC., AND CONTAINS NO UNUSUAL FEATURES.) UNDER DECREE REPRESENTATIVE AGENCIES MAY NOT REPRESENT INTERESTS OF OTHER FOREIGN FIRMS.

6. COMMENT: PASSAGE OF THIS DECREE CAN BE SEEN AS ACT BY GOB NOT ONLY TO BREATHE LIFE INTO MORIBUND INTERPRED (WHOSE COST AND LEGAL RESTRICTIONS MADE IT UNATTRACTIVE TO MANY WESTERN FIRMS) BUT ALSO AS CONCESSION TO REALITIES OF DOING BUSINESS WITH WEST. ALTHOUGH DECREE STRONGLY IMPLIES AGENCIES ARE TO BE ESTABLISHED ONLY FOLLOWING CONCLUSION OF ECONOMIC, TECHNICAL OR PRODUCTION AGREEMENTS AND AGREEMENTS FOR LARGE DELIVERIES, POSSIBILITIES OF AGENCY TO ACT AS SALES AND SERVICE REPRESENTATIVES ARE OBVIOUS. SERVICING AND SPARE PARTS FOR IMPORTED EQUIPMENT HAVE LOOMED INCREASINGLY IMPORTANT WITH RECENT, RAPIDLY EXPANDING TRADE WITH WEST, AND FROM BULGARIA'S POINT OF VIEW THIS IS PROBABLY MOST IMPORTANT FACTOR BEHIND ADOPTION OF DECREE. QUESTIONS REGARDING ACTUAL APPLICATION IN THIS AND OTHER AREAS SUCH AS REPATRIATION OF FUNDS, TAXATION, AND FOREIGN FIRM CONTROL OF SELECTION OF BULGARIAN EMPLOYEES STILL REMAIN UNANSWERED.

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7. OF INTEREST ARE IMPLICATIONS NEW DECREE HAS WITH REGARD TO BULGARIAN COMPLIANCE WITH CSCE BASKET II. PASSAGE OF THIS DECREE IS FIRST NOTE-WORTHY ACT BY GOB SINCE HELSINKI PROVIDING FOR GREATER OPENNESS AND ACCESS FOR WEST IN BULGARIA'S VERY TIGHTLY CONTROLLED ECONOMY. AS REPORTED REFTEL, NEW REGULATION HAS BEEN RUMORED FOR SOME TIME AND ISSUANCE PROBABLY REFLECTS BUSINESS PRACTICALITIES RATHER THAN INTENTIONAL CSCE COMPLIANCE. HERZ

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